

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

CRYSTAL GANN

PLAINTIFF

v.

No. 3:13-cv-71-DPM

HOUSEHOLD LIFE INSURANCE
COMPANY

DEFENDANT

ORDER

1. This case is tangled up. On the same day the Court filed its Order with post-reassignment directions, *No. 94*, Household Life filed a motion, *No. 95*, and faxed the attached letter (duplicative exhibits omitted), to chambers.* Household Life doesn't want to participate in the settlement conference. That's each party's choice, of course. The 17 September 2014 settlement conference is therefore canceled.

2. Household Life's motion to stay is granted in part as modified, denied in part, and held in abeyance in part. The case doesn't need a stay. The Scheduling Order, *No. 40*, is suspended and the 3 November 2014 trial is canceled. An Amended Final Scheduling Order setting the case for trial in

*All substantive communications with the Court should be filed with the Clerk to maintain the record.

Jonesboro on 23 March 2015 will issue. (This is a second-out setting.) The pretrial deadlines will be after the first of the year, which will give the Court time to address the pending motions and avoid unnecessary pretrial work for the parties.

3. Gann should respond on the Rule 60 issues—cover Rule 60(a) & (b)—about the vacated Order and Judgment by 19 September 2014. Household Life may reply by 30 September 2014. Thereafter, the Court will rule on those issues, and the merits of the cross motions for summary judgment if those motions remain open for decision. We'll have the new trial date if we need it.

* * *

Motion, No 95, granted in part as modified, denied in part, and held in abeyance in part.

So Ordered.

W.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

3 September 2014

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Fax To: Judge Marshall
Fax No: 6045417

Date: 09/02/2014 10:59
Pages Sent: 14

Subject: Gann v. Household Life (No. 3:13-cv-00071)

Message:

Judge Marshall:

Please find the letter and attached documents relating to the case that has recently been re-assigned to you. Please call or e-mail me if you have any questions or if we can be of any further assistance.

BRUCE B. TIDWELL | ATTORNEY

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September 2, 2014

Hon. D.P. Marshall, Jr.
United States District Judge
Eastern District of Arkansas
600 West Capitol Ave., Suite B149
Little Rock, AR 72201

Via Telefax to 604-5417

Re: Crystal Gann v. Household Life Insurance Company
(Case No. 3:13-cv-00071-BSM)

Dear Judge Marshall:

On behalf of our client -- Household Life Insurance Company ("Household Life") -- this letter is to object to recent events in the above-referenced case that has been transferred to you and to request that summary judgment in favor of our client be re-entered as soon as possible.

At the end of discovery, our client submitted a Renewed Motion for Summary Judgment [Doc. 80]. At the request of the Plaintiff, Household Life voluntarily agreed to participate in mediation. However, on August 28, 2014, the Court issued an Order [Doc. 90] which found that the Renewed Motion for Summary Judgment should be granted in favor of Household Life and a Judgment was entered [Doc. 90]. We advised our client of this development and the Household Life representative that was scheduled to attend the mediation cancelled his plans to be in Little Rock and made plans to attend to other business.

After the Order granting summary judgment was forwarded to our client, a text entry removing the Order and Judgment¹ was entered and Judge Miller then entered his Order of Recusal [Doc. 92]. Our client feels that the withdrawing of the previous Order granting summary judgment is highly inappropriate and prejudicial. After engaging in substantial discovery, the undisputed facts demonstrate that our client is entitled to entry of summary judgment for the reasons noted in the Order [Doc. 90]. The fact that our client is entitled to entry of summary judgment is independent of and should not be influenced by any settlement possibilities or discussions. Denial of summary judgment and the withdrawing of the previously issued Order granting summary judgment is highly prejudicial to Household Life.

¹ Due to their removal from the record, copies of the Order [Doc. 90] and Judgment [Doc. 91] are being attached to this letter.

Hon. D.P. Marshall, Jr.
September 2, 2014
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In order to correct the current situation, Household Life is asking that this Court

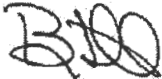
- A. Enter an Order reinstating the Order granting summary judgment previously entered by Judge Miller [Doc. 90] or cause another order to be entered granting summary judgment based on the same rationale.
- B. Cancel the mediation originally scheduled for September 17, 2014. Under the circumstances, Household Life does not want to incur the additional costs for pursuing a mediation that will likely be a waste of time.

Alternatively, if the Court needs additional time to consider the pending renewed motion for summary judgment, Household Life asks that this Court cancel all previously scheduled deadlines and the November trial date pending the Court's analysis. Our client is confident that – like Judge Miller – a thorough review of the pleadings, proof and argument will lead this Court to the conclusion that summary judgment should be granted to Household Life. In short, our client should not be forced to incur additional costs preparing for a trial where summary judgment is appropriate (and has already been granted).

If you have any questions or if we can be of any further assistance to the Court, please either e-mail me at btidwell@fridayfirm.com or give me a call at (501) 370-1496.

Very truly yours,

FRIDAY, ELDREDGE & CLARK, LLP



Bruce B. Tidwell

Attachments

cc: Andrea Giannetta (Via E-Mail)
Martin Kasten
David Hodges (Via Fax to 374-8926)